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EXAMINER

TENTONI, LEO B

ART UNIT	PAPER NUMBER
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1791

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.



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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 10/730,795
Filing Date: December 09, 2003
Appellant(s): REIBEL ET AL.

William C. Gehris
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed on 09 July 2007
appealing from the Office action mailed on 07 February 2007.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is substantially correct. The changes are as follows:

The rejection of claims 1-13 under 35 USC §103(a) as being unpatentable over Wagner et al (U.S. Patent 6,838,043 B1) in combination with Kato (U.S. Patent 4,908,176 A) and the rejection of claims 1-13 under 35 USC §103(a) as being unpatentable over Dugan et al (U.S. Patent Application Publication 2003/0062658 A1) in combination with Kato (U.S. Patent 4,908,176 A) are both withdrawn.

WITHDRAWN REJECTIONS

The following grounds of rejection are not presented for review on appeal because they have been withdrawn by the examiner. The rejection of claims 1-13 under 35 USC §103(a) as being unpatentable over Wagner et al (U.S. Patent 6,838,043 B1) in combination with Kato (U.S. Patent 4,908,176 A) and the rejection of claims 1-13 under 35 USC §103(a) as being unpatentable over Dugan et al (U.S. Patent Application Publication 2003/0062658 A1) in combination with Kato (U.S. Patent 4,908,176 A).

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

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(8) Evidence Relied Upon

US 4,908,176 A KATO 03-1990

US 6,767,498 B1 TALLEY, JR. et al 07-2004

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35

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U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 1-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Talley, Jr. et al (U.S. Patent 6,767,498 B1) in combination with Kato (U.S. Patent 4,908,176 A).

Talley, Jr. et al (see the entire document, in particular, col.4, lines 58-60; col. 11, lines 35-50; col. 14, lines 29-41 and 58-64; col. 16, lines 18-23; col. 16, line 60 to col. 17, line 11) teaches a process of making fabric from yarns, fibers of filaments as claimed (including first elementary filaments of a first polymer and second elementary filaments of a second polymer), except that Talley, Jr. et al does not explicitly teach compressing a fabric to a density of at least 10% of a density of a first polymer. Kato (see the entire document, in particular, col. 2, lines 49-59; col. 2, line 63 to col. 3, line 14; Example 1) teaches a process of making fabric from yarns, fibers of filaments (including first elementary filaments of a first polymer and second elementary filaments of a second polymer) including compressing the fabric to achieve an apparent density of 0.15 to 0.5 gram/cm³. Compressing a fabric to a density of at least 10% of a density of a first polymer would have been obvious to one of ordinary skill in the art at the time the invention was made in the process of Talley, Jr. et al

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in view of Kato principally in order to ensure bonding of the yarns, fibers or filaments used to make the fabric, and to manufacture a fabric having sufficient stiffness and elasticity.

(10) Response to Argument

Appellant argues (page 9) that the desired density of the fabric of Kato is achieved by heating the emulsion resin (which is used to impregnate the fabric) beyond its melting point and questions what is the first polymer and its glass transition temperature. Examiner responds that the desired density of the fabric of Kato is achieved by compressing the fabric at a temperature between a glass transition temperature and a melting temperature of a first polymer (see col. 2, lines 49-59 and Example 1 of Kato; note specifically in Example 1, one of the polymer fibers is made from polyethylene terephthalate (col. 4, line 51) (melting temperature of 264°C, glass transition temperature of 73°C), and the fabric is compressed at a temperature of 190°C (col. 5, lines 35-38), which is between the glass transition temperature and melting temperature of polyethylene terephthalate).

Appellant argues (page 10) that it would not have been obvious to one of skill in the art to have provided any compressing step in view of Talley, Jr. et al or Kato prior to the applying step (i.e., applying a mechanical force to cause

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splitting) as recited in claim 1 of the present application (emphasis by appellant). Examiner responds that this would have been obvious to one of ordinary skill in the art at the time the invention was made because Talley, Jr. et al teaches a compressing step (col. 14, lines 58-64 of Talley, Jr. et al) prior to an applying step (col. 14, lines 28-30 and 58-64; col. 16, lines 18-23; col. 16, line 60 to col. 17, line 11 of Talley, Jr. et al).

Appellant argues (page 10) that the claimed compression step is not disclosed in Kato or Talley, Jr. et al. Examiner responds that the claimed compression step is obvious in view of the combined disclosures of Talley, Jr. et al and Kato. Talley, Jr. et al teaches a step of compressing a fabric (col. 14, lines 58-64 of Talley, Jr. et al). Kato teaches a step of compressing a fabric to achieve an apparent density of 0.15 to 0.5 gram/cm³. Compressing a fabric to a density of at least 10% of a density of a first polymer would have been obvious to one of ordinary skill in the art at the time the invention was made in the process of Talley, Jr. et al in view of Kato principally in order to ensure bonding of the yarns, fibers or filaments used to make the fabric, to manufacture a fabric having sufficient stiffness and elasticity and to optimize the properties desired in the fabric.

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(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

Leo B. Tentoni

Leo B. Tentoni Primary Examiner GAU 1791

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